

# The Orissa Gazette



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## **LABOUR & EMPLOYMENT DEPARTMENT**

### **NOTIFICATION**

The 7th April 2007

No.3455-1i/15-2/2007/LE.—In pursuance of section 17 of the Industrial Disputes Act,1947 (14 of 1947), the award dated the 15th February, 2007 in I.D.Misc. Case No. 2 of 2001 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial disputes between the Management of District Transport Manager (Admn.), Orissa State Road Transport Corporation Ltd., Bargarh and its workman Shri Tikeswar Dandasena, Conductor, OSRTC, Padmapur was referred for adjudication is hereby published as in the schedule below:—

#### **SCHEDULE**

INDUSTRIAL TRIBUNAL, BHUBANESWAR  
INDUSTRIAL DISPUTE MISC. CASE No. 2 of 2001

Dated, the 15th February, 2007.

*Present:*

Sk. Jan Hossain, o.s.j.s.(Sr.Branch),  
Presiding Officer,  
Industrial Tribunal,  
Bhubaneswar.

*Between:*

Shri Tikeswar Dandasena,  
Conductor,O. S. R. T. C.,  
Padampur.  
Dist : Bargarh. ... Complainant —Workman.  
And  
District Transport Manager (Admn.),  
O. S. R. T. C., Bargarh.Dist: Bargarh ... O. P. — Management.

*Appearances :*

Shri M.C. Sahu, A. R. ... For the Complainant—Workman.

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Shri D. Adhikari, Labour Welfare Officer. ... For the O. P. —Management.

This is a complaint under Section 33-A of the Industrial Disputes Act, 1947 ( here in after referred to as the 'Act') challenging the order No. 191 dated the 4th December 2000 in dismissing the complainant-workman from service w.e.f. 4th December 2000 during pendency of I.D. Case No. 103 of 1995 in which the complainant was a concerned workman.

2. Short facts of the case are as under :—

On 30th May 2000 the complainant-workman while performing duty as a Conductor in Bus bearing registration No. OIS 7694 plying in Amodi-Padampur route, he was found to have carried 29 without ticket passengers. The checking Officer prepared a report accordingly and asked the Conductor to sign and receive a report but he refused. Treating this to be a misconduct within the Regulation of O.S.R.T.C. he was charge sheeted. Enquiry proceedings were initiated against him who denied the articles of charge. Upon conclusion of the department enquiry, the Enquiry Officer gave his report holding the articles of charge proved. The disciplinary authority after perusing the report and the connected records dismissed him from service w.e.f. 4th December 2000. It is averred in the application that one month's wages amounting to Rs. 2404/- of the complainant was sent to him by money order in his home address and the dismissal order was also sent to him in his home address by Registered post with A.D.. The O.P.-Management there upon sought approval of the Tribunal for termination of the service of the workman u/s 33(2) (b) of the Act. The Industrial Tribunal after hearing the parties passed an order of approval on 28th June 2003.

3. The complainant-workman in his application has stated that he was a concerned workman in I.D. Case No. 103 of 1995. He while admitting about the checking of the bus on the relevant date has stated that the said Officers prosecuted him u/s 178 of the Motor Vehicles Act and compounded the offence u/s 200 of the said Act directing the complainant to deposit Rs. 14,500/- in the R.T.O., Bargarh. In the application it is averred that it was the regular practice of the Nuapada College students for travelling free of cost from Khariar Road College to Nuapada College. On the relevant date a group of college students boarded the bus from different places to Khariar road town to travel Nuapada college and lastly at Khariar Road Check gate. At the time of negotiation the Checking Officer reached the spot and demanded for checking of the bus. As per their asking he handed over the ticket book. Without considering the fact that the without ticket passengers were college students and they had not paid their fare, recorded the endorsement and issued usual tickets. It is also averred that departmental enquiry was conducted by the disciplinary authority himself and without considering the materials concluded the enquiry. The enquiry is not based on actual records and evidence. Ultimately, a major punishment of dismissal was passed. It is said that the enquiry was not conducted in a fair and proper manner. The punishment inflicted on the workman is too harsh and disproportionate to the alleged misconduct.

4. The complainant-workman has examined himself as C.W.No. 1 and one Shri Pareshnath Kar as C.W.No.2. He has also relied upon documents marked as Exts.1 to 8. The O.P.- Management has examined the D.T.M., In-charge, O.S.R.T.C., Cuttack as O.P.W. No. 1 and filed documents marked as Exts. A to E. Exts.C, D and E are the certified copies of orders in I.D. Misc. Case No. 11 of 2000; depositions of Shri R. K. Chhotray and Shri B. B. Dash respectively in the said case.

5. In I.D. Misc. Case No. 11 of 2000, the Court of competent jurisdiction recorded the evidence of witnesses and after hearing the parties granted approval u/s 33(2)(b) of the Act. Once the approval is granted, the order becomes effective and enforceable. It has found the enquiry to be fair and proper and in accordance with the principles of natural justice. The Conductor was detected to have carried 29 passengers without ticket and further refused to receive a copy of the Checking report. This conduct was highlighted by the Management and established in the enquiry. This was certainly of very grave nature. The findings on essential ingredients in the case have been recorded on the basis of materials on record. In the circumstances, it will not be appropriate for the Tribunal to come to a contrary conclusion in the same facts. The punishment inflicted in this case appears to be not disproportionate to the nature of misconduct.

The application of the complainant is disposed of accordingly.

Dictated & corrected by me.

Sk. Jan Hossain  
Dt.15-2-2007  
Presiding Officer,  
Industrial Tribunal,  
Bhubaneswar.

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Dt.15-2-2007  
Presiding Officer,  
Industrial Tribunal,  
Bhubaneswar.

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By order of the Governor

N. C. RAY  
Under-Secretary to Government